BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

EDNA BAKER)
Claimant)
VS.)
) Docket No. 245,247
HAYDEN'S SALON & DAY SPA)
Respondent)
AND	
WAUSAU UNDERWRITERS INS. COMPANY and)
CGU/HAWKEYE SECURITY INS. COMPANY)
	<i>)</i>
Insurance Carriers)

ORDER

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge Bruce E. Moore on February 15, 2001.

ISSUES

Claimant describes the issue on appeal as whether her injuries arose out of and in the course of her employment or, stated another way, whether claimant's current need for medical treatment is a direct consequence of the repetitive use injuries claimant suffered while working for respondent during the dates of accident alleged.

Respondent and its insurance carriers argue this appeal fails to raise an issue which the Board has jurisdiction to review on an appeal from a preliminary hearing order and should, therefore, be dismissed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Board concludes that the issues raised on appeal concern the claimant's need for additional medical treatment and/or the nature and extent of her injuries. These are not jurisdictional issues. Therefore, the Board does not have jurisdiction to review the ALJ's Order denying claimant's preliminary hearing requests at this stage of the proceedings.

On an appeal from a preliminary hearing order, the Board is limited to review of allegations that the Administrative Law Judge exceeded his/her jurisdiction. K.S.A. 44-551. This includes review of issues identified in K.S.A. 44-534a as jurisdictional issues. On the

current appeal, there is no dispute that claimant suffered personal injury by a series of accidents that arose out of and in the course of her employment with respondent. The only questions are her need for additional medical treatment, the nature and extent of her injury and, possibly, the date or dates of accident, and, as a result, which insurance carrier is liable for benefits. These are not issues identified in K.S.A. 44-534a and the ALJ did not exceed his jurisdiction in denying claimant's request for additional medical treatment. Accordingly, the ALJ's decision is not subject to review at this time.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the appeal of the preliminary hearing Order entered by Administrative Law Judge Bruce E. Moore on February 15, 2001, should be, and the same is hereby, dismissed.

IT IS SO ORDERED.

Dated this day of May 2001.

BOARD MEMBER

c: Matthew L. Bretz, Hutchinson, KS
Douglas C. Hobbs, Wichita, KS
Kendall R. Cunningham, Wichita, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director